

Message Text

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PAGE 01 STATE 040749
ORIGIN EB-08

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DRAFTED BY EB/TCA/MA:CTAYLOR, JR.:EW
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FM SECSTATE WASHDC
TO AMEMBASSY BUENOS AIRES IMMEDIATE

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STADIS////////////////////////////////////

PASS TO RICHARD K. BANK, DIRECTOR, OFC. OF MARITIME AFFAIRS

E.O. 11652:N/A

TAGS: EWWT, AR

SUBJECT:BLACKWELL-BANK VISIT TO ARGENTINA

1. FMC CHAIRMAN BAKKE ON FEBRUARY 22 SENT LENGTHY LETTER
TO SECRETARY CONCERNING BLACKWELL-BANK TRIP TO ARGENTINA.
FOLLOWING ARE MAJOR PORTIONS OF LETTER:

QUOTE:...UNDER SECTION 19 OF THE MERCHANT MARINE ACT OF
1920, AND REORGANIZATION PLAN NO. 7 OF 1961, THIS AGENCY
IS EXPLICITLY CHARGED WITH RESPONSIBILITY TO TAKE SUCH
COUNTERVAILING MEASURES AS MAY BE NECESSARY TO RECTIFY
CONDITIONS UNFAVORABLE TO SHIPPING IN THE U.S. OCEAN
TRADES THAT ARISE OUT OF, OR RESULT FROM, FOREIGN LAWS.
IT IS CLEAR, THEREFORE, THAT THE SUBJECT MATTER OF RESOLU-
TION 507 FALLS SQUARELY WITHIN THE AMBIT OF THE FMC'S
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JURISDICTION. ACCORDINGLY, IN MY VIEW, IT WOULD NOT BE
UNREASONABLE TO EXPECT THAT THE COMMISSION WOULD BE
INCLUDED, OR AT LEAST CONSULTED, IN DISCUSSIONS OR OTHER
ACTIONS SEEKING TO REMOVE THE DISCRIMINATORY EFFECT OF
RESOLUTION 507 AS TO THE OCEAN COMMERCE OF THE UNITED
STATES. THIS IS PARTICULARLY TRUE BECAUSE, IF THOSE DIS-
CUSSIONS FAIL, THE STATUTORY MANDATE FOR RETALIATORY

ACTION WILL DEVOLVE UPON THIS AGENCY. I REGRET THAT
NEITHER THE DEPARTMENT OF STATE NOR THE DEPARTMENT OF

COMMERCE'S MARITIME ADMINISTRATION, THAT HAVE BEEN
COLLABORATING TO DATE IN "STRATEGY" PLANNING AND IN
COMMUNICATIONS WITH THE ARGENTINE GOVERNMENT CONCERNING
RESOLUTION 507, HAS SOUGHT TO INCLUDE THE COMMISSION.
NOR HAVE THEY KEPT US APPRISED OF DEVELOPMENTS OTHER THAN
BY ROUTINE DISTRIBUTION OF YOUR CABLE TRAFFIC ON THE
SUBJECT. I MIGHT ADD THAT WE WERE NOT GIVEN AN OPPORTUN-
ITY TO CLEAR THE OUTGOING TRAFFIC.

ALSO, IT IS MY UNDERSTANDING THAT RICHARD BANK OF YOUR
DEPARTMENT AND ROBERT BLACKWELL OF THE MARITIME ADMIN-
ISTRATION ARE SCHEDULED TO EMBARK TODAY FOR ARGENTINA
TO INITIATE FACE-TO-FACE NEGOTIATIONS CONCERNING RESOLU-
TION 507. THE COMMISSION'S INPUT FOR A PRE-DEPARTURE
BRIEFING WAS NEVER SOUGHT, NOTWITHSTANDING THAT THE
AFOREMENTIONED CABLE TRAFFIC HAD RAISED THE ULTIMATE
POSSIBILITY OF RECOURSE TO SECTION 19 ACTION BY THE
COMMISSION.

...IN THE FINAL ANALYSIS, ONLY THE COMMISSION IS AUTHOR-
IZED BY THE CONGRESS TO DETERMINE WHEN OR WHETHER
SECTION 19 RETALIATION SHOULD BE INVOKED, AND WHAT SHOULD
BE THE NATURE OF SUCH RETALIATION. THUS, THERE IS GRAVE
DANGER OF BOTH COMMERCIAL AND DIPLOMATIC EMBARRASSMENT
IF AN AGREEMENT IS REACHED WITHOUT THE COMMISSION'S
PARTICIPATION OR ACQUIESCENCE.
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IN THIS PARTICULAR CASE, THERE ARE AT LEAST TWO CIRCUM-
STANCES THAT COULD LEAD TO SUCH EMBARRASSMENT. FIRST,
ANY AGREEMENT REACHED BY MESSRS. BANK AND BLACKWELL
COULD VERY WELL INVOLVE COMMITMENTS OR UNDERTAKINGS BY
CARRIERS IN THE U.S.-ARGENTINE LINER TRADE THAT WILL
REQUIRE APPROVAL BY THE COMMISSION UNDER SECTION 15 OF
THE SHIPPING ACT OF 1916.....SECOND, AND PERHAPS THE
MOST SERIOUS PROSPECT, IS AN AGREEMENT THAT ACCOMMODATES
ONLY THE INTERESTS OF U.S. FLAG CARRIERS IN THE U.S.-
ARGENTINE LINER TRADE, IGNORING THE INTERESTS OF OTHER
NON-ARGENTINE FOREIGN FLAG CARRIERS IN SERVING THAT
TRADE.

RESOLUTION 507, AS CURRENTLY IMPLEMENTED, APPEARS TO
DISCRIMINATE AGAINST FOREIGN-FLAG CARRIERS HERETOFORE
OPERATING AS "CROSS-TRADERS" IN THE U.S.-ARGENTINE
TRADES AS WELL AS AGAINST U.S. FLAG CARRIERS. PROTEC-
TION AND PROMOTION OF THE U.S. MERCHANT MARINE IS THE

STATUTORY ROLE OF THE MARITIME ADMINISTRATION, AND
THAT OBJECTIVE CERTAINLY WOULD BE ADVANCED BY ANY AGREE-
MENT THAT REMOVES THE ONUS OF RESOLUTION 507 FROM U.S.
OCEAN CARRIERS.

BY CONTRAST, THE FEDERAL MARITIME COMMISSION'S STATUTORY
MANDATE IS TO SAFEGUARD EQUAL ACCESS TO U.S. OCEAN
FOREIGN COMMERCE BY OCEAN CARRIERS, REGARDLESS OF FLAG,
THAT WISH TO PARTICIPATE IN THE U.S. LINER TRADES...

ACCORDINGLY, IN THE EVENT MESSRS. BANK AND BLACKWELL
MIGHT BE ABLE TO EXTRACT CONCESSIONS FROM THE GOVERNMENT
OF ARGENTINA THAT ARE APPLICABLE TO PARTICIPATION BY
U.S. FLAG VESSELS IN THE U.S.-ARGENTINE LINER TRADE,
BUT DO NOT PROVIDE ADEQUATELY FOR SUCH PARTICIPATION
BY FOREIGN FLAG VESSELS, THE COMMISSION MIGHT WELL BE
OBLIGED, NOTWITHSTANDING, TO PROCEED UNDER SECTION 19,
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UNQUOTE.

2. WOULD APPRECIATE ANY COMMENTS YOU CAN PROVIDE REGARD-
ING SUBSTANCE OF DEPARTMENT'S REPLY.
VANCE

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